

of the allowance should be regulated. The decree which was passed in that case, and which gave relief of a totally different character from that which was asked for, was reversed for the reasons stated, but without prejudice to the rights of the parties. It seems to the Chancellor fair to suppose that if in that case the value of the husband's property had been shown, the Court of Appeals, upon the principles stated by them, would have given the wife alimony though there was no pretence that they had been divorced previously. The Chancellor does not think that there is anything in the case of *Crane vs. Meginnis*, 1 *G. & J.*, 463, which is in conflict with his understanding of the previous case of *Wallingsford vs. Wallingsford*. The judge in delivering the opinion of the court in *Crane vs. Meginnis*, speaking of the doctrine of the ecclesiastical courts in England, says that the allowance of alimony there is treated as a consequence drawn from the divorce, *a mensa et thoro*, but it certainly is not to be inferred from this that he meant to say the Court of Chancery of Maryland could not decree alimony unless the parties had been previously divorced, when no judicial power in the state at that time had authority to pass such a sentence.

Prior to the act of 1841, ch. 262, the act of divorcing man and wife had been performed exclusively by the legislature, and as said by the Court of Appeals in *Crane vs. Meginnis*, could be viewed in no other light than the regular exertion of legislative power.

Upon what grounds this department of the government proceeded in this exercise of its authority it would be difficult to ascertain, as the laws passed upon this subject seldom contain a preamble or other statement setting forth the facts which led to their enactment, but it is certainly highly probable that they did not in all cases confine themselves to the causes upon which alone the ecclesiastical courts in England would separate man and wife. It is certain that the act of 1841 conferring jurisdiction upon the equity courts authorizes them to grant divorces both absolute and qualified upon grounds which are not warranted by the canon law of England.